

Application No. 10/678,764

REMARKS

The Examiner's Office Action has been studied carefully. Claims 1-20 stand rejected under 35 U.S.C. § 112, first paragraph. Claims 1-20 stand rejected under 35 U.S.C. § 112, second paragraph. Claims 1-8 and 10-20 stand rejected under 35 U.S.C. § 102(b). Claim 9 stands rejected under 35 U.S.C. § 103(a).

Claims 21-27 remain in this application. Claims 1-20 have been canceled. Claims 21-27 have been added.

The specification has been amended at page 11, lines 1-2 to correct a typographical error in the description of the invention.

Argument

The § 112, First Paragraph Rejection

Claims 1-20 stand rejected under 35 U.S.C. § 112, first paragraph, as to comply with the enablement requirement. The Examiner indicated that the claims are not clear as to whether the claimed invention is planar or solid.

Claims 1-20 are cancelled and new Claims 21-27 make clear that the building block is three-dimensional.

The § 112, Second Paragraph Rejection

Claims 1 and 9 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 is rejected because there is no antecedent basis for "said triangular member." Claim 9 is cancelled.

Claim 1 is rejected because the arrangement of magnets relative to the triangular members is not clear. Claim 1 is cancelled.

The § 102(b) Rejection

Claims 1-8 and 10-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ehrlich '004. The Examiner has indicated that Ehrlich discloses all of the elements of Claim 1 including triangular modular members forming hedrons and a magnet in each member such that adjacent members have opposite polarities.

Claims 1-8 and 10-20 are cancelled. New Claims 21-27 are not anticipated by Ehrlich. Ehrlich discloses the use of multiple magnets in each face. On the other hand, the block of Claim 21 has a single magnetic region in each face. Ehrlich does not disclose the use of colors corresponding to magnetic polarity, whereas Claim 21 includes a limitation that each face have a color that corresponds to the magnetic polarity.

Application No. 10/678,764

Claims 1-8 and 10-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Zeischegg '360. The Examiner has indicated that Zeischegg discloses all of the elements of Claim 1 including triangular modular members forming hedrons and a magnet in each member such that adjacent members have opposite polarities.

Claims 1-8 and 10-20 are cancelled. New Claims 21-27 are not anticipated by Zeischegg because Zeischegg does not disclose the use of colors corresponding to magnetic polarity. On the other hand, Claim 21 includes a limitation that each face have a color that corresponds to the magnetic polarity of the face.

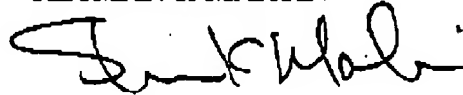
The § 103(a) Rejection

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Zeischegg '360. More specifically, the Examiner stated that it would be obvious to a person of ordinary skill in the art at the time the invention was made to make the block of Zeischegg with particular dimensions. Claim 9 is cancelled and there are no new corresponding claims.

CONCLUSION

In view of the distinctions in Claims 21-27 over the cited references, namely that the cited references do not disclose the use of colors that correspond to magnetic polarity, allowance of these claims is respectfully solicited.

Respectfully submitted,
ALTMAN & MARTIN



Steven K. Martin
Registration No. 38,542
617-523-3515 x202